

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

MICHAEL SEVILLE LEWIS,

Plaintiff,

v.

SNOHOMISH COUNTY
SHERIFFS, et al.,

Defendant.

CASE NO. C19-870-RAJ

**ORDER GRANTING
PLAINTIFF'S OBJECTIONS
AND ADOPTING IN PART AND
REJECTING IN PART THE
REPORT AND
RECOMMENDATION**

The Court has reviewed Plaintiff's Amended Complaint, the Report and Recommendation of the Honorable Brian A. Tsuchida, United States Magistrate Judge, Plaintiff's Objections to the Report and Recommendation, and the remaining record. For the following reasons, the Court GRANTS Plaintiff's Objections (Dkt. # 20) and ADOPTS in part and REJECTS in part the Report and Recommendation (Dkt. # 16).

On June 24, 2019, Judge Tsuchida issued an Order declining to serve Plaintiff's Complaint but granting leave to amend. Dkt. # 7. In the Order, Judge Tsuchida

1 described in detail the underlying deficiencies in Plaintiff's Complaint. Dkt. # 7. Judge
2 Tsuchida explained that the Amended Complaint should include "short, plain statements
3 telling the Court: (1) the constitutional right plaintiff believes was violated; (2) the name
4 of the person who violated the right; (3) exactly what that person did or failed to do; (4)
5 how the action or inaction of that person is connected to the violation of plaintiff's
6 constitutional rights; and (5) what specific injury plaintiff suffered because of that
7 person's conduct." *Id.* at 6.

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9 On August 21, 2019, Plaintiff filed an Amended Complaint containing, in large
10 part, the same underlying deficiencies as his initial Complaint. Dkt. # 12. Plaintiff once
11 again failed to set forth specific facts to support any of his claims, relying instead on
12 conclusory statements and generalizations. As a result, Judge Tsuchida recommended
13 that the Amended Complaint be dismissed with prejudice. Dkt. # 16.

14 Plaintiff appears to acknowledge the deficiencies in his Amended Complaint and
15 objects only to Judge Tsuchida's recommendation that the action be dismissed with
16 prejudice. Dkt. # 20. Plaintiff contends that, despite Judge Tsuchida's previous Order,
17 he now understands his pleading obligations and includes several "examples" of new
18 factual allegations that he will incorporate in his second amended complaint, if given
19 leave to amend. *See e.g.*, Dkt. # 20 at ¶¶ 7, 8.

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21 Although the Court is skeptical that further amendment will be beneficial "the
22 standard for granting leave to amend is generous." *Balistreri v. Pacifica Police Dep't*,
23 901 F.2d 696, 701 (9th Cir. 1988). "The rule favoring liberality in amendments to
pleadings is particularly important for the pro se litigant." *Noll v. Carlson*, 809 F.2d

1 1446, 1448 (9th Cir. 1987). With respect to Plaintiff's First Amendment Free Exercise
2 and Fourteenth Amendment claims, Plaintiff has identified several new factual
3 allegations in his Objections that, if properly pled, may render Plaintiff's claims viable.
4 With respect to Plaintiff's First Amendment retaliation claim, however, the Court agrees
5 with Judge Tsuchida that Plaintiff has failed to state a claim for retaliation and that
6 further amendment would be futile. Accordingly, Plaintiff's First Amendment retaliation
7 claim is dismissed, with prejudice.

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9 For the foregoing reasons, the Court **GRANTS** Plaintiff's Objections (Dkt. # 20)
10 and **ADOPTS IN PART** and **REJECTS IN PART** the Report and Recommendation
11 (Dkt. # 16). Plaintiff's Amended Complaint is **DISMISSED** with leave to amend.
12 Within **twenty-one (21) days from the date of this Order**, Plaintiff may file an
13 amended complaint addressing the deficiencies in his First Amendment Free Exercise
14 and Fourteenth Amendment claims only. If Plaintiff does not file an amended complaint
15 within that timeframe, or if Plaintiff files an amended complaint that does not state a
16 cognizable claim for relief or is otherwise untenable under § 1915(e), the Court will
17 dismiss the action with prejudice. The Clerk shall provide copies of this Order to the
18 parties and Judge Tsuchida.

19 DATED this 10th day of December, 2019.

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23 The Honorable Richard A. Jones
United States District Judge